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09/396,429	09/15/1999	JOHN S. HENDRICKS	SEDN/5815	7434

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PATTERSON & SHERIDAN, LLP/  
SEDNA PATENT SERVICES, LLC  
595 SHREWSBURY AVENUE  
SUITE 100  
SHREWSBURY, NJ 07702

EXAMINER
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KOENIG, ANDREW Y

ART UNIT	PAPER NUMBER
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2623

MAIL DATE	DELIVERY MODE
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07/30/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Advisory Action</b> <b>Before the Filing of an Appeal Brief</b>	<b>Application No.</b> 09/396,429	<b>Applicant(s)</b> HENDRICKS ET AL.	
	<b>Examiner</b> Andrew Y. Koenig	<b>Art Unit</b> 2623	

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 17 July 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
- Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN 6 MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) the date in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
- (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ They raise the issue of new matter (see NOTE below);
- (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.
- NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).


4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL -324).
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
- The status of the claim(s) is (or will be) as follows:
- Claim(s) allowed: \_\_\_\_\_.
- Claim(s) objected to: \_\_\_\_\_.
- Claim(s) rejected: \_\_\_\_\_.
- Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_
13. ☐ Other: \_\_\_\_\_

  
 Andrew Y Koenig  
 Primary Examiner  
 Art Unit: 2623

Continuation of 11. does NOT place the application in condition for allowance because: Applicant's arguments filed 17 July 2007 have been fully considered but they are not persuasive.

#### 112- 1st paragraph: Enablement requirement

In response to the enablement requirement that the instant invention of a "card insertable into the set top terminal" would require undue experimentation, the applicant alleges that one of ordinary skill in the art would know how to make the set top terminal. In support, the applicant relies upon pg. 37, ll. 13-16, stating that "the expansion card or hardware upgrade may be inserted into an expansion card slot 665 causing the connector on the expansion card to electrically link with a card connector on the set top terminal 220." The examiner disagrees; the term "card" has a known meaning in the art of "A printed circuit board and components that make up the modules that plug in to the bus backplane. (see IEEE dictionary -attached)." Given the language of the claim and the disclosure on pg. 37, ll. 13 -20, it appears that the printed circuit board is insertable into the set top terminal. However, the support is merely meeting the written description requirement, but does not envision which electrical signals are needed for the control, address, and data busses. Whereas the applicant argues that it is within the ability of one of ordinary skill in the art, the examiner disagrees; the applicant has provided no guidance on the corresponding structure for implementing the connection (e.g. bus controllers, type of bus, type of connections to the bus). Furthermore, a set top terminal is a dedicated device unlike the multipurpose functionality of a personal computer. Since the applicant has provided no suggestion on how to make the instant invention, it fails to meet the enablement requirement.

This definition is consistent with applicant's disclosure that "expansion cards can be used to internally provide any of the Level A through E hardware upgrade features..." (emphasis added) (see specification: pg. 37, ll. 9 -11). From this description, the applicant has reasonably met the written description requirement, but still lacks enablement support, as discussed above.

Further, even if the applicant intends to capture the embodiment with an external card insertable into the set top terminal via an expansion card slot, the applicant has provided insufficient guidance on how the electrical connection would be made.

#### 103(a)

The applicant argues that present independent claims 30 and 42 are fully disclosed within the parent application (07/991,074) filed in 09 December 1992. The examiner disagrees. In order to gain benefit of the earlier applications filing date, the claimed subject matter of the instant invention must meet the requirements of 112, more specifically, the written description requirement and enablement requirement.

For support the applicant relies on the following (see pg. 14, paragraph 3 of remarks):

Specifically, the parent application discloses a television terminal having a modem 627, wherein the hardware upgrade is on a card 700 and the upgrade includes 4 possible hardware upgrades such as Level B interactive unit as disclosed on pages 54-55. The upgrade utilizes the modem of the television terminal. This is also shown in FIG. 7b, which shows the hardware upgrade for generating the desired menus with on-line information.

The examiner disagrees with the characterization of the relied upon portions. Within fig. 7B, the applicant clearly shows the telephone modem (fig. 7b, label 627) separate from the hardware upgrade (fig. 7b, label 700). Further, even if one of ordinary skill would replace the upgrade module 700 with the modem 627 the modem would be inoperable, the applicant has provided no guidance on how the modem would function with receiving compressed video data and receiving data from the decryptor as shown in the figure 7b.

The applicant relies on pg. 54-55 of the parent application:

The Level B interactive unit will allow the user access to online data base services for applications such as home shopping, airline reservations, news, financial services, classified advertising, home banking, and interactive teletext services. For example, with this upgrade, a user will be able to reserve plane tickets or buy consumer electronics. The primary feature of this upgrade unit is that it allows actual transactions to occur requiring two way communications via modem with outside services. This added two way communications capability may be with the cable headend 208. Additionally, this two way communications may occur over cellular or PCN.

From the above citation, the applicant has merely conveyed the existence of an upgrade unit that provides online data base services, but merely describes the functionality without any insight on the structural means for performing the tasks

From the applicant's parent specification: pg. 54, ll. 1 -9.

In the preferred embodiment, the set top terminal 220 includes a hardware upgrade port 662 as shown in FIG. 8b, in addition to the expansion slots behind plate 664. The hardware upgrade port 662 should accommodate at least a four-wire connection for: (1) error corrected, decrypted data output of the set top terminal 220, (2) control interface, (3) decompressed video output of set top terminal 220, and (4) video input port. In the preferred embodiment multiple wires are used to perform each of the four functions. The four sets of wires are combined in a single cable with a single multipin connector. Port 662 may also be used to attach various hardware upgrades below to a set top terminal 220.

Further, the parent application has support for a upgrade port 662 as shown in figure 8b, but notes this interface is for a connector (not a card), and the individual wires do not support any modem data <sub>2</sub> input. The examiner notes that like the instant application, the

parent application provides not guidance on how to make the device.

The examiner notes that the applicant has not presented any prior art arguments to the other independent claims 1, 14, 24, and 60. The rejection is maintained.

Attachment

**IEEE 100**  
**The Authoritative Dictionary of**  
**IEEE Standards Terms**

**Seventh Edition**



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**capacity, specific unit, purchases or sales (electric power supply)** Capacity that is purchased, or sold, in transactions with other systems and which is from a designated unit on the system of the seller. (PE/PSE) 346-1973w

**capacity test (battery)** A discharge of a battery at a constant current or a constant power to a specified voltage.

(SB/PE/EDPG) 1188-1996, 450-1995, 1106-1995

**cap-and-pin insulator** An assembly of one or more shells with metallic cap and pin, having means for direct and rigid mounting. *See also:* insulator. (EEC/IEPL) [89]

**capstan** A rotating shaft within a tape drive that pulls the tape across the read or write heads. (C) 610.10-1994w

**capture effect (1) (modulation systems)** The effect occurring in a transducer (usually a demodulator) whereby the input wave having the largest magnitude controls the output.

(Std100) 270-1964w

(2) The tendency of a receiver to suppress the weaker of two time-coincident signals within its passband.

(AES) 686-1997

**capturing (accelerometer) (gyros)** The use of a torquer (forcer) in a servo loop to restrain a gyro gimbal, rotor, or accelerometer proof mass to a specified reference position.

(AES/GYAC) 528-1994

**car** *See:* vehicle.

**carabiner** A connector component generally comprised of a trapezoidal or oval shaped body with a normally closed gate or similar arrangement which may be opened to permit the body to receive an object, and when released, automatically closes to retain the object. (T&D/PE) 1307-1996

**carabiner, locking** *See:* locking carabiner.

**carabiner, manual locking** *See:* manual locking carabiner.

**carabiner, non-locking** *See:* nonlocking carabiner.

**car annunciator** An electric device in the car that indicates visually the landings at which an elevator-landing signal-registering device has been actuated. *See also:* elevator.

(EEC/PE) [119]

**carbon-arc lamp (illuminating engineering)** An electric-discharge lamp employing an arc discharge between carbon electrodes. One or more of these electrodes may have cores of special chemicals that contribute importantly to the radiation.

(EEC/IE) [126]

**carbon block protector** An assembly of two or three carbon blocks and air gaps designed to a specific breakdown voltage. These devices are normally connected to telecommunication circuits to provide overvoltage protection and a current path to ground during such overvoltage. (PE/PSC) 487-1992

**carbon brush (A) (motors and generators)** A specific type of brush composed principally of amorphous carbon. *Note:* This type of brush is usually hard and is adapted to low speeds and moderate currents. (B) (motors and generators) A broader classification of brush, containing carbon in appreciable amount. *See also:* brush. (PE) [9]

**carbon-consuming cell (carbon-combustion cell)** A cell for the production of electric energy by galvanic oxidation of carbon. *See also:* electrochemistry. (PE/EEC) [119]

**carbon-contact pickup** A phonograph pickup that depends for its operation upon the variation in resistance of carbon contacts. *See also:* phonograph pickup. (EEC/PE) [119]

**carbon-dioxide system (rotating machinery)** A fire-protection system using carbon-dioxide gas as the extinguisher.

(PE) [9]

**carbon-graphite brush** A carbon brush to which graphite is added. This type of brush can vary from medium hardness to very hard. It can carry only moderate currents and is adapted to moderate speeds. *See also:* brush. (EEC/EM/LB) [101]

**carbon noise (carbon microphones)** The inherent noise voltage of the carbon element. *See also:* close-talking pressure-type microphones. (SP) 258-1965w

**carbon-pressure recording facsimile** That type of electromechanical recording in which a pressure device acts upon carbon paper to register upon the record sheet. *See also:* recording. (COM) 168-1956w

**carbon telephone transmitter** A telephone transmitter that depends for its operation upon the variation in resistance of carbon contacts. *See also:* telephone station. (EEC/PE) [119]

**car builder (1)** The entity assembling or manufacturing the vehicle. (VT) 1475-1999

(2) The entity manufacturing the vehicle. (VT) 1476-2000

**car, cable** *See:* cable car.

**carcinogen** An agent that tends to produce cancer.

(T&D/PE) 539-1990

**carcinotron (microwave tubes) (m-type backward-wave oscillator)** A crossed-field oscillator tube in which an electron stream interacts with a backward wave on the nonreentrant circuit. The oscillation frequency is a function of anode-to-solve voltage. (ED) [45]

**car, conductor** *See:* conductor car.

**card (1) (STD bus)** A printed circuit board and components that make up the modules that plug in to the bus backplane.

(C/MM) 961-1987r

(2) (A) A generic term used as an abbreviation for a circuit board. (B) An input medium made of paperboard, formed in a uniform size and shape such that it may be punched or marked and sensed electronically. *See also:* magnetic card; mark-sensing card; punch card. (C) 610.10-1994

(3) (computers) *See also:* magnetic card; tape to card; punched card.

**card cage** A chassis in which a printed circuit board may be mounted. (C) 610.10-1994w

**card code** The set or combination of punched holes in a punch card that represent a character. (C) 610.10-1994w

**card column** A single vertical line of punch positions on a punch card. *Contrast:* card row. (C) 610.10-1994w

**card deck** A group of punch cards. (C) 610.10-1994w

**card duplicator** *See:* card reproducing punch.

**card extender** A device that provides access to components on a circuit card for testing purposes while maintaining all the electrical connections to the card.

(SWG/PE) C37.100-1992

**card feed (1) (test, measurement, and diagnostic equipment)** The mechanism that moves cards serially into a machine.

(MIL) [2]

(2) A mechanism that moves cards one at a time from the card hopper to the card path. (C) 610.10-1994w

**card field (test, measurement, and diagnostic equipment)** An area (one or more columns) of a card that is regularly assigned for the same information item. (MIL) [2]

**card hopper (1) (computers)** A device that holds cards and makes them available to a card-feed mechanism. *See also:* card stacker. (C) [85]

(2) The part of a card-processing device that holds the cards to be processed and makes them available to the card feed mechanism. *Synonym:* punched card holder. *Contrast:* card stacker. (C) 610.10-1994w

**card image (1) (computers)** A one-to-one representation of the contents of a punched card, for example, a matrix in which 1 represents a punch and a 0 represents the absence of a punch. (C) [85]

(2) A representation of the hole patterns found in a punched card, for example, a matrix in which a one represents a punch and a zero represents the absence of a punch. (C) 610.10-1994w

**cardinality (1) (A)** The number of elements in a set. (B) In a relational data model, the number of tuples in a relation. (C) 610.5-1990

(2) The numeric relationship between entity sets, labeled one to one (1-1), many to one (M-1), or many to many (M-N), which indicates the number of items in one entity set that could possibly be associated with the items in another entity set. (PE/EDPG) 1150-1990

(3) A specification of how many instances of a first class or must exist for each instance of a second (not necessarily distinct) class, and how many instances of a second class

or must exist for each instance of a relation. *See also:* cardinality

**cardinality constraint** number of instances a relationship. *See also:* that limits the number of instances a relationship can have.

**cardinal plane** For an arrangement in a regular pattern to the planar array of elements.

*Notes:* 1. This term is used to describe a large number of instances of a relationship. 2. This term is used to describe a large number of instances of a relationship.

**cardiogram** *See:* electrocardiogram

**cardiovascular effect** I of the heart and the lungs.

**car door (elevators)** Tl or sliding portion in the car door opening giving access to the hoistway.

**car-door contact** An electric contact to prevent operation of the car door when the car is in the hoistway.

**car-door closer** A device that manually opens the car door, hand, gravity, spring, or elevator.

**card path** In a card-processing device, the path by which cards are moved and guided.

**card-processing device** to punch cards. *See also:* punch; card punch.

**card-programmed (test equipment)** The capability of a test equipment to be programmed according to instructions.

**card punch** An output device that punches hole patterns in punch cards. *See also:* card reproducing punch.

**card reader (1) (test, measurement, and diagnostic equipment)** A mechanism that reads punched cards.

(2) An input device that reads punch card, transforms punch card signals into digital signals. *Synonym:* card reader; card hopper; card stacker.

(3) A device used to read punch cards.

**card, relay** *See:* relay card

**card reproducer** *See:* card reproducing punch

**card reproducing punch** pares one punch card into another punch card. *See also:* card reader.

**card row** A single horizontal line of punch positions on a punch card. *Contrast:* card column.

**card set function generator** A device that generates a sequence of punch cards and a sequence of punch cards.

**card sorter** A sorting device that sorts punch cards according to a key.